

Before the
FEDERAL COMMUNICATION COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Federal-State Joint Board on)	
Universal Service Seeks Comment)	
On Proposals to Modify the Commission's)	
Rules Relating to High-Cost Universal)	
Service Support)	

INTRODUCTION:

Home Telephone Company, Inc. (Home) and PBT Telecom (PBT) (collectively referred to as the "Companies") hereby submit these comments in response to the Federal-State Joint Board on Universal Service (Joint Board) Public Notice, released August 17, 2005.¹ The Public Notice seeks comment on four proposals that several Joint Board members and staff have developed to modify the Federal Communications Commission's (FCC's, Commission's) rules relating to high-cost universal service support for rural carriers.

Home and PBT are rural local exchange carriers serving approximately 22,000 access lines in portions of rural Berkeley and Dorchester counties of South Carolina and 18,000 access lines in rural portions of six counties, respectively. Home receives approximately \$13.00 per access line, per month and PBT \$21.50 per access line, per month in support from the various high-cost federal universal service support mechanisms and would be adversely impacted by the proposed modifications to the high-cost universal service support mechanisms contained in the proposals submitted.

¹ *Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, CC Docket No 96-45, Public Notice, FCC 05J-1 (rel. Aug. 17, 2005) (Public Notice).

Universal service reform and issues associated with reform of the existing intercarrier compensation (ICC) mechanisms are of critical concern to the Companies as evidenced by their expenditure of considerable resources attempting to monitor and comment on various proposals over the last several years related to both universal service and intercarrier compensation.² Comments and *ex parte* presentations previously filed by the Companies have presented a consistent theme: existing universal service and intercarrier compensation mechanisms are broken and must be fixed.³ Moreover, as the existing universal service and intercarrier compensation mechanisms are integrally linked, any solutions must address the various problems concurrently and in a comprehensive manner. Continued efforts to resolve either of these issues independently are likely to meet with failure.

The task of reforming universal service and ICC has been made even more complicated by a failure to clearly define the differences between intercarrier compensation and universal service. It should be common knowledge that “ICC” is the mechanism utilized to compensate carriers for the use of their networks by other parties for access to the public switched telephone network (PSTN). In order to insure preservation of the circuit-based PSTN, all carriers utilizing the PSTN should help pay for it. As such, existing high-cost support mechanisms such as local switching support and interstate common line support should be reestablished as part of an ICC mechanism. Universal service, on the other hand, constitutes a series of mechanisms to insure that all Americans have access to the PSTN at affordable rates in addition to achieving other social policies. The existing universal service funding mechanisms should be reformed to provide high-cost loop support along with the social policy initiatives of schools and

² See, e.g., Letter from Keith Oliver, Home, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (filed Nov. 9, 2004); Letter from Keith Oliver, Home, and Ben Spearman, PBT, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (filed Nov. 2, 2004); Comments of Home and PBT, CC Docket No. 96-45, filed Oct. 15, 2004; Letter from Denny V. Thompson, Home., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (filed July 29, 2004); Letter from Kenneth E. Hardman, Counsel for Home and PBT, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (filed Dec. 12, 2003). See *also* Comments and Reply Comments of The Coalition For Capacity-Based Access Pricing in CC Docket No. 01-92 filed May 20, 2005 and July 20, 2005, respectively (“CCAP Comments”) (Home and PBT were participating companies in these filings).

³ *Id.*

library discounts, rural health care, and low income support. The importance of the universal service programs dictate establishment of the largest contribution base possible. While these concepts should be common to all, there is a very clear misunderstanding of ICC and universal service in the industry as evidenced by the four proposals presented by the Joint Board.

Unfortunately, each of the four proposals currently before the Joint Board to reform the universal service mechanism applicable to rural carriers fail to address the issues of universal service and ICC reform in a comprehensive manner. In addition, the proposals contain nothing new. Rather, the proposals reflect ideas previously raised and ultimately rejected by the FCC in other proceedings. All four proposals fall short of the federal legislative mandate of ensuring that rural consumers continue to have access to high-quality services, including advanced services that are affordable and reasonably comparable to the services and rates offered in urban areas. It is critical that the Joint Board take a broader view of universal service reform and invite broader participation in crafting a reform plan.

Our comments will focus on several broad areas common to each of the proposals. Specifically, we will address the following:

1. Distinction between rural and non-rural carriers
2. State allocation mechanisms
3. Calculating support based on state-wide cost
4. Consolidation of study areas
5. Embedded cost based support

In addition to commenting on these five areas, we reference what we believe is a better approach to reforming universal service and ICC in a single, comprehensive plan.

I. Distinction Between Rural And Non-Rural Carriers

In general, the four proposals attempt to eliminate the distinction between rural and non-rural carriers in distributing universal service support. Thus, the proposals ignore a

fundamental reason for the existence of universal service funding. The funding is intended to support the deployment of networks in high-cost areas and ensure that subscribers have access to such networks at affordable prices. Specifically, the '96' Act requires that subscribers in rural areas have access to comparable services and at comparable rates to those subscribers in urban areas.

Large carriers serve predominately low cost urban areas, while also deploying networks in some higher cost rural areas. However, larger carriers typically have both the ability, and in most cases the obligation, to average costs over their entire network, or at a minimum, throughout their statewide networks. In other words, larger carriers typically do not require high cost support to achieve affordable average pricing across their networks.

On the other hand, smaller rural carriers typically serve high cost areas and do not have the ability to achieve an affordable average basic service rate within their respective networks. Since high cost support is designed to allow such carriers the ability to provide service at "reasonable" rates, then it should be clear that it is important to distinguish between large urban carriers and smaller, rural carriers. Failure to do so can only result in one of two outcomes. Either the size of the funding will explode to provide support to networks of larger carriers that do not require such funding to maintain affordable average rates or, if funding does not increase, smaller rural carriers will be left with insufficient funding to maintain affordable average rates within their rural networks.

The Joint Board should reject any proposals to eliminate existing distinctions pertaining to universal service funding mechanisms between rural and non-rural carriers. To do otherwise would jeopardize the mission of providing adequate support to rural, high cost areas.

II. State Allocation Mechanism (SAM)

The Joint Board should reject the concept of block style grants, or state allocation mechanisms. Existing federal funding is specifically designed to recover interstate costs and costs assumed under federal rules to assist with cost recovery in high cost areas. Today, there is a uniform federal mechanism in place to identify these costs and distribute funding to those carriers that qualify for support.

Under the SAM, each state would be given discretion for the distribution of funding. Such a process could clearly result in funding being calculated in one manner, but then distributed in another. Carriers creating the cost justification for the funding would not be guaranteed receipt of funds based on their own costs. In addition, such a system would likely add large administrative costs to the system. Under the existing federal rules, states are already given a great deal of authority in distributing funding to ETCs and CETCs within their borders via their designation and annual certification processes.

The adoption of the SAM would create great uncertainty for rural carriers. It would be likely that similarly situated carriers with similar cost characteristics could receive widely disparate funding simply due to the fact that they were located in different states.

Logic dictates that the calculations utilized for meeting funding requirements should drive the rationale for how such funds are distributed. The Joint Board should reject any proposal that separates the methodologies for determining funding requirements and funding distribution.

III. Support Based On Average Statewide Costs

In general, the proposals submitted advocate the statewide averaging of costs for determining eligibility for receipt of federal high-cost support for rural carriers. It would appear this would be similar to the mechanism currently used to calculate support for non-rural carriers. As stated earlier, USF should be directed to individual high cost networks and used to support those networks whose costs would require pricing above

a comparable, affordable urban level. It would appear the main purpose for advocating state-wide averaging is simply to slash the amount of USF required. Such an approach ignores the stated legislative purpose of USF which is to insure “consumers in all regions of the nation ... have access to telecommunications and information services ... at levels and rates reasonably comparable to rates charged for similar services in urban areas.”⁴ The calculation of costs at a statewide level for rural carriers would, in effect, substitute high cost states in place of “rural and high cost areas” in accordance with the Act and substitute low cost states in place of “urban areas.” In effect, such a proposal would override the intent of federal legislation with respect to universal service.

The impact of statewide average costs for the determination of universal service funding would be devastating to America's rural, high cost carriers. As previously stated, rural carriers do not have the ability to average rates over the urban populations contained within each state. Yet, their support would be reduced or even eliminated since support would reflect lower cost to serve areas that are outside of the rural LEC's service area. In South Carolina, no large carrier qualifies for universal service support in accordance with the statewide averaging mechanism. Accordingly, Home & PBT would most likely lose all universal service support under such a mechanism.

Once again, the Companies recommend that the Joint Board reject the adoption of any proposal that ignores the stated purpose of existing federal law.

IV. Consolidation of Study Areas

The proposal to consolidate study areas within a state appears once again to simply reduce the size of the federal fund without regard to the impact on service in rural areas. In most cases, rural carriers operating in multiple study areas serve areas that are not geographically contiguous. These carriers would have difficulties in achieving any economies of scale as their geographic locations require separate operations. To the extent any cost savings are realized, they are already being recognized under the

⁴ 47 U.S.C. § 254(b)(3).

existing federal rate of return regulation mechanisms such as jurisdictional cost studies and USF algorithms.

Consolidation of study areas produce some of the same concerns addressed previously with respect to the statewide averaging of costs. Such actions will likely result in less support to the most rural areas within the consolidated service area leading to either diminished service or higher rates for subscribers residing in those areas.

V. Use of Embedded Costs

Several of the proposals endorse moving to a forward-looking cost model for developing high cost support. It has been demonstrated on many occasions that the use of such models results in large distortions in support calculations for many smaller, rural carriers.⁵

USF is intended to support the deployment and affordable pricing of “real” networks. Investment is required to meet growth in rural areas as it occurs, not based on some theoretical “most efficient” model developed after the fact. In order to ensure networks are available when and where needed, including the advanced broadband networks required for the future, USF must be based on actual expenditures. Even if use of embedded costs creates some short-term economic incentive to over-invest in rural areas, this is a much more favorable outcome than under-investing. Individual state public service commissions are in a position to monitor investment in rural areas and act in those situations where inefficient spending might occur.

Finally, the use of actual costs for all recipients will ensure each recipient receive only the funds actually needed to support operations in high cost areas, nothing more and nothing less. There are many things broken with the current USF mechanism; one of

⁵ See *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket Nos. 96-45, 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11256 paras. 25,26 (2001). See also Comments of John Staurulakis, Inc., CC Docket No. 96-45, filed Oct. 15, 2004 at 13-14; Comments of The National Exchange Carrier Association, Inc., CC Docket No. 96-45, filed Feb. 26, 2001 at 3-4.

the few things working properly is the use of embedded costs for rural ILECs. Rather than abandon this concept, the Joint Board should instead call for its extension to all CETCs operating in rural, high cost areas.

VI. Conclusion

The proposals currently in front of the Joint Board are all cut from the same cloth. They approach the issue of USF reform strictly from one point of view: reduction in support to high cost to serve areas. The proposals fail to address the reform of USF in any meaningful way and should be rejected. Instead, what is needed is a call for other proposals or plans to provide a diverse viewpoint to ensure all aspects are considered prior to adopting any plan to modify rural high cost universal service support.

Any plan adopted to address USF must recognize the imminent reform that is required in ICC. Based on the ICC reform plans and principles submitted, it is clear that any meaningful reform of ICC will likely increase USF funding requirements, especially for rural ILECs. The Joint Board should step back and have the courage to address both USF and ICC reform concurrently. They are inseparable issues and the failure to address both simultaneously will insure the failure of each individually.

To assist in what we know is a complicated and confusing endeavor, the Companies reference the comprehensive plan for overhaul of both USF and ICC contained in comments and reply comments filed by the Coalition for Capacity Based Access Pricing (CCAP).⁶ The plan described by the CCAP in the FCC's more recent request for comments in its ICC proceeding is an outgrowth of a plan developed by the Companies.

Clearly, the time has come for comprehensive reform of both the existing ICC and USF mechanisms. To continue the piece-meal approach of the past is to invite the destruction of the PSTN. We ask that the Joint Board step back and ask just one simple but fundamental question. What is the difference between universal service

⁶ Comments were filed in CC Docket No. 01-92 on May 20, 2005 and reply comments were filed on July 20, 2005.

funding and intercarrier compensation? We submit that this simple, fundamental question has not yet been addressed. Yet, efforts are underway to reduce ICC rates and transfer funding to USF to the point that both mechanisms face collapse. We urge the Joint Board to reject the narrowly focused proposals now in front of them and expand the scope of their review so as to encourage proposals that will insure the continuation of affordable telecommunications services in rural America.

Respectfully submitted,

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